



## **DEPARTMENT OF LABOR**

### **Occupational Safety and Health Administration**

#### **29 CFR Parts 1910 and 1926**

#### **Docket No. OSHA -2006-0049**

### **Respiratory Protection; Mechanical Power Presses; Scaffold Specifications; Correction and Technical Amendment**

**AGENCY:** Occupational Safety and Health Administration (OSHA), Labor.

**ACTION:** Final rule; correction and technical amendment.

**SUMMARY:** OSHA is correcting the medical evaluation questionnaire in Appendix C of its Respiratory Protection standard by removing the term “fits” in a question. OSHA also is correcting its Mechanical Power Presses standard for general industry by restoring requirements that were removed inadvertently from the regulatory text. Finally, the Agency is correcting a cross reference made in two paragraphs in Appendix A to subpart L of its scaffold standards for construction.

**DATES:** The effective date for the corrections and technical amendment to the standards is [INSERT DATE OF PUBLICATION IN THIS FEDERAL REGISTER].

#### **FOR FURTHER INFORMATION CONTACT:**

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General and technical information: Kenneth Stevanus, OSHA Office of Engineering Safety, OSHA, Room N-3621, U.S. Department of Labor, 200 Constitution

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## **SUPPLEMENTARY INFORMATION:**

### **I. Background**

#### *A. Appendix C (Mandatory) to §1910.134 (Respiratory Protection).*

In the Standards Improvement Project-Phase III (SIP-III) final rule, published on June 8, 2011 (76 FR 33590), OSHA revised question 2.a in the OSHA Respirator Medical Evaluation Questionnaire, Appendix C, Part A, Section 2, of its Respiratory Protection standard (§1910.134) by deleting the word "fits," leaving only the word "seizures" to describe the applicable medical condition. OSHA received no public comment on this revision in the proposed SIP-III rule (75 FR 38646, 38650). Therefore, in the final SIP-III rule, OSHA determined that (1) use of the term "fits" is outdated, unnecessary, and offensive, and (2) this revision would have no effect on administration of, or responses to, the questionnaire (76 FR 33590, 33595). Subsequent to publication of the SIP-III final rule, OSHA found an additional use of the term "fits" in Appendix C of §1910.134: namely, question 7.d. This *Federal Register* notice will remove the term "fits" from question 7.d.

In addition, when OSHA promulgated the revised Respiratory Protection standard on January 8, 1998 (63 FR 1152), the introductory language of Appendix C included the following prefatory question to the employee: "Can you read (circle one): Yes/No." Because this question is illogical (i.e., employees who cannot read cannot respond validly to the question), this *Federal Register* notice will remove this question from Appendix C of §1910.134.

B. Mechanical Power Presses (§1910.217).

On December 27, 2011, OSHA published a Federal Register notice making corrections and technical amendments to 16 OSHA standards (76 FR 80735). One of the standards involved the Mechanical Power Presses standard for general industry (§1910.217); paragraph (g)(1) of this standard requires employers to submit to OSHA reports of employees injured while operating such presses. Specifically, paragraph (g)(1) requires that employers submit the reports to federal OSHA or, for state-plan states, the state agency administering the plan. The purpose of revising this paragraph was to include the new title of the federal OSHA office designated to receive the reports, and to provide an electronic address for submitting the reports, consistent with the recommendations of the Paperwork Reduction Act and associated regulations (44 U.S.C. chapter 35; 5 CFR 1320.8(a)(5)). However, the requirements in paragraph (g)(1) specifying what information to include in the report were missing from the subsequent Code of Federal Regulations generated by the Office of the Federal Register. This Federal Register notice will restore these missing requirements.

C. Appendix A (Non-mandatory) to 29 CFR 1926, Subpart L (Scaffolds).

On August 30, 1996, OSHA published the Scaffold standard for construction at 29 CFR 1926, subpart L (61 FR 46026). Paragraphs (z)(3) and (z)(5) in Appendix A of that standard, which address tank builders' scaffolds, incorrectly refer to the guardrail requirements at §1926.451(e)(4). The requirements at §1926.451(e)(4) contain provisions for stair towers, which are not applicable to tank building scaffolds. The reference cited in paragraphs (z)(3) and (z)(5) should be to paragraph §1926.451(g)(4), which addresses guardrail systems for tank building scaffolds. Accordingly, this Federal

Register notice will revise paragraphs (z)(3) and (z)(5) of Appendix A to refer to §1926.451(g)(4) instead of §1926.451(e)(4).

## **II. Exemption from Notice-and-Comment Procedures**

OSHA determined that this rulemaking is not subject to the procedures for public notice and comment specified in Section 4 of the Administrative Procedures Act (5 U.S.C. 553), Section 6(b) of the Occupational Safety and Health Act of 1970 (29 U.S.C. 655(b)), and 29 CFR 1911.5. This rulemaking does not affect or change any existing rights or obligations, and no stakeholder is likely to object to them. Therefore, the Agency finds good cause that public notice and comment are unnecessary within the meaning of 5 U.S.C. 553(b)(3)(B), 29 U.S.C. 655(b), and 29 CFR 1911.5.

### **List of Subjects**

#### 29 CFR Part 1910

Mechanical power presses, Occupational safety and health, Respiratory protection.

#### 29 CFR Part 1926

Scaffolds, Occupational safety and health.

### **Authority and Signature.**

David Michaels, MPH, PhD, Assistant Secretary of Labor for Occupational Safety and Health, U.S. Department of Labor, 200 Constitution Avenue, NW, Washington, DC 20210, authorized the preparation of this document. Accordingly, pursuant to Section 6 of 29 U.S.C. 655, Section 4 of 5 U.S.C. 553, Secretary of Labor's Order No. 1-2012 (77 FR 3912), and 29 CFR 1911.5.

Signed at Washington, DC on July 27, 2012.

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**David Michaels,**

*Assistant Secretary of Labor for Occupational Safety and Health.*

Accordingly, OSHA is amending 29 CFR parts 1910 and 1926 by making the following corrections and technical amendments:

**PART 1910—OCCUPATIONAL SAFETY AND HEALTH STANDARDS**

**Subpart I—[Amended]**

1. Revise the authority citation for subpart I to read as follows:

**Authority:** 29 U.S.C. 653, 655, 657; Secretary of Labor's Order No. 12-71 (36 FR 8754), 8-76 (41 FR 25059), 9-83 (48 FR 35736), 1-90 (55 FR 9033), 6-96 (62 FR 111), 3-2000 (65 FR 50017), 5-2002 (67 FR 65008), 5-2007 (72 FR 31160), 4-2010 (75 FR 55355), or 1-2012 (77 FR 3912), as applicable; and 29 CFR 1911.

Sections 1910.132, 1910.134, and 1910.138 of 29 CFR also issued under 29 CFR 1911.

Sections 1910.133, 1910.135, and 1910.136 of 29 CFR also issued under 29 CFR 1911 and 5 U.S.C. 553.

2. In §1910.134:

a. In the introductory text of Appendix C to §1910.134, remove “Can you read (circle one): Yes/No”.

b. Revise question 7.d. in Part A, Section 2 (Mandatory) of Appendix C, to read as follows:

**§ 1910.134 Respiratory protection.**

\* \* \* \* \*

Appendix C to §1910.134: \* \* \*

\* \* \* \* \*

Part A. Section 2. \* \* \*

7. \* \* \*

d. Seizures: Yes/No

\* \* \* \* \*

**Subpart O—[AMENDED]**

3. Revise the authority citation for subpart O to read as follows:

**Authority:** 29 U.S.C. 653, 655, 657; Secretary of Labor's Order No. 12–71 (36 FR 8754), 8–76 (41 FR 25059), 9–83 (48 FR 35736), 1–90 (55 FR 9033), 6–96 (62 FR 111), 3–2000 (65 FR 50017), 5–2002 (67 FR 65008), 5–2007 (72 FR 31160), 4–2010 (75 FR 55355), or 1-2012 (77 FR 3912), as applicable; and 29 CFR 1911.

Sections 1910.176, 1910.177, 1910.178, 1910.179, 1910.180, 1910.181, and 1910.184 also issued under 29 CFR part 1911.

4. Amend §1910.217 by revising paragraph (g) to read as follows:

**§ 1910.217 Mechanical power presses.**

\* \* \* \* \*

(g) Reports of injuries to employees operating mechanical power presses. (1)

The employer shall report, within 30 days of the occurrence, all point-of-operation

injuries to operators or other employees to either the Director of the Directorate of Standards and Guidance at OSHA, U.S. Department of Labor, Washington, DC 20210 or electronically at <http://www.osha.gov/pls/oshaweb/mechanical.html>; or to the State Agency administering a plan approved by the Assistant Secretary of Labor for Occupational Safety and Health.

(2) The report shall include the following information:

(i) Employer's name, address and location of the workplace (establishment).

(ii) Employee's name, injury sustained, and the task being performed (operation, set-up, maintenance, or other).

(iii) Type of clutch used on the press (full revolution, part revolution, or direct drive).

(iv) Type of safeguard(s) being used (two hand control, two hand trip, pullouts, sweeps, or other). If the safeguard is not described in this section, give a complete description.

(v) Cause of the accident (repeat of press, safeguard failure, removing stuck part or scrap, no safeguard provided, no safeguard in use, or other).

(vi) Type of feeding (manual with hands in dies or with hands out of dies, semiautomatic, automatic, or other).

(vii) Means used to actuate press stroke (foot trip, foot control, hand trip, hand control, or other).

(viii) Number of operators required for the operation and the number of operators provided with controls and safeguards.

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**PART 1926—SAFETY AND HEALTH REGULATIONS FOR CONSTRUCTION**

**Subpart L—[AMENDED]**

5. Revise the authority citation for subpart L to read as follows:

**Authority:** 40 U.S.C. 333; 29 U.S.C. 653, 655, 657; Secretary of Labor's Order Nos. 1–90 (55 FR 9033), 5–2007 (72 FR 31159), or 1-2012 (77 FR 3912); and 29 CFR part 1911.

6. Revise paragraphs (z)(3) and (z)(5) of Appendix A to subpart L to read as follows:

\* \* \* \* \*

**(Non-Mandatory) Appendix A to Subpart L of Part 1926—Scaffold Specifications.**

\* \* \* \* \*

(z) \* \* \*

(3) A taut wire or synthetic rope supported on the scaffold brackets shall be installed at the scaffold plank level between the innermost edge of the scaffold platform and the curved plate structure of the tank shell to serve as a safety line in lieu of an inner guardrail assembly where the space between the scaffold platform and the tank exceeds 12 inches (30.48 cm). In the event the open space on either side of the rope exceeds 12 inches (30.48 cm), a second wire or synthetic rope appropriately placed, or guardrails in accordance with § 1926.451(g)(4), shall be installed in order to reduce that open space to less than 12 inches (30.48 cm).

\* \* \* \* \*

(5) Guardrails shall be constructed of a taut wire or synthetic rope, and shall be supported by angle irons attached to brackets welded to the steel plates. These guardrails



shall comply with § 1926.451(g)(4). Guardrail supports shall be located at no greater than 10 feet 6 inch intervals.

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